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The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Fire Safety Commission

Automatic Sprinkler Appeals Board

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MAURICE M. PILETTE
CHAIRMAN

RODERICK J. FRASER, JR.
VICE CHAIRMAN

Docket # 2011-14
1 Brayton Point Road
Somerset, Massachusetts

AUTOMATIC SPRINKLER APPEALS BOARD DECISION

A) Statutory and Regulatory Framework

This is an administrative appeal held in accordance with Massachusetts General Laws Chapter 30A, Chapter 148, § 26G, and Chapter 6, section 201, relative to a decision of the Somerset Fire Department, requiring Dominion Energy Brayton Point Station (hereinafter referred to as the Appellant) to install automatic sprinklers throughout a building that it owns and is under construction and at 1 Brayton Point Road, Somerset, Massachusetts.

B) Procedural History

By written notice received by the Appellant on July 26, 2011, the Somerset Fire Department issued a determination requiring automatic sprinklers to be installed throughout the subject building. According to the notice, the determination was issued pursuant to the provisions of M.G.L. c. 148 § 26G. On September 2, 2011, the Appellant filed an appeal of the determination with the Automatic Sprinkler Appeals Board. The Board held a hearing on October 12, 2011, at the Department of Fire Services, Stow, Massachusetts.

Appearing on behalf of the Appellant were Dominion Project Manager, Tom Penna; Kiewit Fire Protection Engineer, Jason Jouret; Kiewit Project Manager, Greg Short; and Code Consultant, Don Contois. Appearing on behalf of the Somerset Fire Department was Deputy Chief David Messier.

Present for the Board were: Roderick J. Fraser, Jr., Acting Chairman; Alexander MacLeod; Aime R. DeNault; and George A. Duhamel. Peter A. Senopoulos, Esquire, was the Attorney for the Board.

C) Issue(s) to be Decided

Whether the Board should affirm, reverse or modify the determination of the Somerset Fire Department requiring sprinklers in the Appellant's building, in accordance with the provisions of M.G.L. c.148 § 26G?

D) Evidence Received

1. Application for Appeal filed by Appellant
2. Letter to Somerset Building Commissioner from Project Mgr., Brayton Point (dated 7/13/2011)
3. Correspondence from the Somerset Fire Department to Project Mgr., Brayton Point (dated 7/26/2011)
4. Correspondence from Project Mgr., Brayton Point to Somerset Fire Department (dated 7/13/2011)
5. Correspondence from the Somerset Fire Department to Project Mgr., Brayton Point (dated 7/26/2011)
6. Fire Protection Systems Narrative Report
7. Notice of Hearing to Appellant
8. Notice of Hearing to the Somerset Fire Department
9. Copies of two Memoranda that accompany Hearing Notices

E) Subsidiary Findings of Fact

- 1) By written notice received by the Appellant on July 26, 2011, the Somerset Fire Department issued a determination requiring automatic sprinklers to be installed throughout the subject building. According to the notice, the determination was issued pursuant to the provisions of M.G.L. c. 148 § 26G. On September 2, 2011, the Appellant filed an appeal of the determination with the Automatic Sprinkler Appeals Board. The Board held a hearing on October 12, 2011, at the Department of Fire Services, Stow, Massachusetts.
- 2) The Appellant testified that the building at issue, building # 3, is an integral portion of an electric power generating facility consisting of several buildings operated by Dominion Energy Brayton Point, LLC in Somerset, MA.
- 3) The Appellant testified that the subject building which is under construction is a “scrubber” building that features a cluster of fabric bags, coated with a lime preparation and uses an injector system. The scrubber building is used to filter sulfur dioxide and mercury emissions. The scrubbers are housed in a self contained and sealed portion of the building and would only be accessed every 3-5 years for routine maintenance and bag replacement. The Appellant stated that the power facility has at least one person on site at all times to monitor plant operations. Occasionally between 2-4 operators (employees) will be entering building #3 to observe and monitor the scrubbing process and to replace nozzles when needed. The Appellant is planning to install a partial sprinkler system in certain portions of the building and will also install a variety of different fire protection systems and equipment. The systems, which are outlined in a comprehensive report and plan dated July 12, 2011 and referred to as revision F, have been entered into the record as Exhibit # 6.
- 4) Both parties testified that they have met to review the planned fire protection system and agree that the subject building presents unique uses and characteristics. The Somerset Fire Department has agreed with the fire protection plan as submitted, together with four specific

requirements outlined in a confirmatory letter dated July 26, 2011 issued by Chief Jepson and referenced as Exhibit # 3.

- 5) The representatives of the Somerset Fire Department testified that they are in agreement with the proposed fire protection plan presented to the Board and believe that it provides an adequate system of automatic sprinklers taking into consideration the unique design and use of the building. Deputy Chief Messier also testified that the only additional request his department sought was to require 400 feet of 1¾" hose and related storage located inside the building. The Appellant has agreed to said request.
- 6) The Appellant indicated that this building is over 100 feet in height and that the Appeals Board of the Board of Building Regulations and Standards granted a waiver from the requirement of certain sprinkler requirements, which would be required under 780 CMR, the State Building Code.

F) Ultimate Findings of Fact and Conclusions of Law

- 1) The provisions of M.G.L. c. 148, s. 26G, state, (in pertinent part): "Every building or structure, including any additions or major alterations thereto, which totals, in the aggregate, more than 7,500 gross square feet in floor area shall be protected throughout with an **adequate** system (emphasis added) of automatic sprinklers in accordance with the provisions of the state building code." This law, as stated, reflects recent amendments to the statute enacted by Chapter 508 of the Acts and Resolves of 2008. The new provisions apply to "the construction of buildings, structures or additions or major modifications thereto, which total, in the aggregate, more than 7,500 gross square feet permitted after January 1, 2010". (Sec. 6, Chapter 508 of the Acts of 2008).
- 2) Based upon the facts presented at the hearing, the Board finds that the subject building is, in general, the type building subject to the provisions of s. 26G and clearly consists of more than 7,500 gross square feet in floor area.
- 4) Based upon the evidence presented, the board finds that the subject building presents unique design and use characteristics which make the installation of a sprinkler system **throughout** the building, impractical based upon both technical and practical reasons discussed at the hearing and contained in reports submitted at the hearing. A partial sprinkler system, combined with the comprehensive fire protection features described in the Fire Protection Systems Narrative and Report and Plan, dated July 12, 2011 and referred to as revision F (entered into the record as Exhibit # 6), together with four specific requirements outlined in a confirmatory letter dated July 26, 2011 issued by Chief Jepson (referenced as Exhibit # 3) provides the "adequate" level of protection in the manner consistent with the life safety intent of the enhanced fire protection requirements of M.G.L. c. 148, s. 26G. The Board notes that the Somerset Fire Department fully concurs with this conclusion.

G) Decision of the Automatic Sprinkler Appeals Board

Based upon the evidence and testimony presented at the hearing, the Board hereby **modifies** the Order of the Somerset Fire Department and finds that a partial sprinkler system shall be

installed in accordance with the Fire Protection Systems Narrative and Report, Revision F, dated July 12, 2011 as submitted to this Board and referenced, as Exhibit # 6. Furthermore, the four (4) specific requirements outlined in the confirmatory letter dated July 26, 2011 issued by Chief Jepson and referenced, as Exhibit # 3 shall also be included as a condition of this decision.

H) Vote of the Board

Roderick J. Fraser, Jr., Acting Chairman	In Favor
Alexander MacLeod	In Favor
Aime R. DeNault	In Favor
George A. Duhamel	In Favor

I) Right of Appeal

You are hereby advised you have the right to appeal this decision, in whole or in part, within thirty (30) days from the date of receipt of this order, pursuant to section 14 of chapter 30A of the General Laws.

SO ORDERED,



Roderick J. Fraser, Jr.

Dated: December 9, 2011

A COPY OF THIS DECISION AND ORDER WAS FORWARDED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO:

Don E. Contois, P.E.
R.W. Sullivan Engineering
529 Main Street, Suite 203
Charlestown, Massachusetts 02129

Chief Scott H. Jepson
Somerset Fire Department
475 County Street
Somerset, Massachusetts 02726